

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2004-90

April 7, 2004

ROBERT WEINGARTEN
Appeal of Consumer Assistance Division
Division Decision

ORDER

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

In this Order, we uphold the Consumer Assistance Division (CAD) decision of January 29, 2004 regarding a complaint of Community Service Telephone (CST) customer Robert Weingarten. However, we agree to examine the issues raised by Mr. Weingarten when we review telephone line extension policies beginning in June 2004.

II. BACKGROUND

On January 4, 2004, Mr. Weingarten filed a complaint with CAD about pole attachment charges which he has been paying since 1980. The monthly charge is currently \$1.53 per pole for four poles. After investigating the matter, CAD found that the charges were consistent with CST's rate schedules which provide in Section 1B, Sheet 3, 3.4.3:

If a pole line of another wire using company is involved, the customer shall assume beyond the first two poles the entire construction costs incurred by the Telephone Company in furnishing telephone service through joint ownership. Where attachment charges are incurred in lieu of joint ownership, the customer shall assume beyond the first two poles all such charges.

This provision has been in effect since June 1, 1979. CAD closed the complaint because CST was in compliance with its filed Terms and Conditions.

On January 29, 2004 Mr. Weingarten appealed CAD's decision to the Commission. He asks the Commission to "rescind CST's authority to charge customer's individual pole attachment charges for utility poles on private property."

III. DECISION

We agree that CST's line extension tariffs should be reexamined given the passage of time since they were put in place 25 years ago. We have recently approved changes in the line extension policies of electric utilities and such a review is likely necessary for telecommunications carriers.

In November of 2003, the Commission approved a stipulation allowing a merger between Community Service Telephone and the five Maine Companies of FairPoint of New England. Docket No. 2003-475, Order Approving Stipulation (Nov. 14, 2003). One of the Stipulation provisions requires that within six months of consummation of the reorganization, FairPoint will provide the Commission staff "an analysis of the pros and cons of adopting a new line construction policy... and will discuss in good faith the adoption of a new line construction policy similar to those recently adopted for major electric utilities in Maine." The Commission intends to open an inquiry in the near future to examine whether a telecommunication line extension rule should be adopted to establish criteria applicable to all carriers. When such an examination begins, we will notify Mr. Weingarten to allow him to participate if he so chooses. We understand that CST has not been charging him fees while this appeal has been pending. We direct CST to continue to abate the charges until we complete any investigation into revisions of line extension policies. If we find that the tariff should remain unchanged, Mr. Weingarten will owe the charges not levied during the pendency of the review.

Dated at Augusta, Maine, this 7th day of April, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.